IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 1121 (S/S) of 2007

Rajeev Kumar S/o Bharat Singh
R/o Kishan Sahkari Chinni Mill Nadehi Tehsil, Jaspur
District- U.S. Nagar -------Petitioner

Versus

1. State of Uttarakhand through Secretary Education, Uttarakhand Dehradun
2. Director of School Education, Uttarakhand, Dehradun
3. Principal, District Institute of Education and Training, Rudrapur, District U.S. Nagar

-------- Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Tumul Nailwal, learned counsel for the petitioner and Sri N.P. Shah, learned Standing Counsel State of Uttarakhand for the respondents.

The petitioner has preferred the instant writ petition for the following reliefs:-

i Issue a writ, rule, order or direction in the nature of mandamus commanding and directing the respondents to provide admission to the petitioner for Special BTC Training Course and also direct the respondents to include the name of the petitioner in the selection list for Special BTC Training course.

ii Issue any other order or direction, which this Hon'ble Court may deem fit and proper under the circumstances of the case.

iii Award cost of the petition in favour of the petitioner.

Stand of the petitioner is that in pursuance of the advertisement issued in the year 2006, he applied for Special B.T.C. Training Course. The petitioner is fully qualified to be selected for the training of Special B.T.C. Course as he passed his B.Sc. Examination from Rohilkhand University and has obtained his B.Ed. Degree as a regular student in the year 2006 for session 2005-06 from Chaudhary Charan Singh University, Meerut. The petitioner obtained provisional marks-sheet on 12.05.2006 before publication of advertisement for selection in the Training of Special B.T.C. Course. In fact, the original marks-sheet was also issued to the petitioner on 24.07.2006.

Though, the last date of submission of applications for Special B.T.C. Training Course was 10th August 2006 and the advertisement was published on 09.07.2006, since there was a clause in the advertisement that on the date of publication of advertisement, the candidate must possess that marks-sheet and other certificates, in these circumstances, the Principal of the concerned District Institute of Educational Training (for brevity the DIET) has not considered application of the petitioner for selection in Special B.T.C. Training Course.

Learned Standing Counsel has submitted that the petitioner, along with his applications, has not annexed the provisional marks-sheet, however, he has submitted original marks-sheet which was issued to him on 24.07.2006 and since there was a clause in the advertisement itself that the candidates must possess the marks-sheet of B.Ed. Degree on the date of publication of the advertisement, consequently, candidature of the petitioner was not considered. Learned Standing Counsel has further submitted that it is the

prerogative of the State Government to stipulate cut of date in recruitment matters which cannot be challenged by any aspirant, after having applied in pursuance thereof.

I am in agreement of the arguments advanced by the learned Standing Counsel that it is the prerogative of the State Government to fix cut of date in recruitment matters, which is not arbitrary and has nexus to the object sought to be achieved. In the present case, in facts, there appears no question of challenging the cut of date, instead the question arises that according to the advertisement, whether the candidates have in their possession the Degree and the mark-sheets issued to them is of on or prior to the date of publication of publication of advertisement of not?

Since, this Court cannot decide the disputed question of facts under Article-226 of the Constitution of India, I deem it just and proper to direct the petitioner to approach Additional Director, S.C.E.R.T., Uttarakhand, Narendranagar for redressal of his grievances and the Additional Director, S.C.E.R.T., Narendranagar may pass appropriate orders on the application of the petitioner, keeping in view the observations made in the body of the judgment, within a period of ten days from the date of production of a certified copy of this order, along with the representation, if any, moved before him.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M. M. Ghildiyal, J.)

21.08.2007
VKS